

**IN THE UNITED STATE DISTRICT COURT**  
**FOR THE WESTERN DISTRICT OF MISSOURI**  
**SOUTHERN DIVISION**

MONICA DANIEL HUTCHISON, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
TEXAS COUNTY, MISSOURI; )  
MICHAEL R. ANDERSON, )  
TEXAS COUNTY PROSECUTING )  
ATTORNEY; and )  
MICHAEL R. ANDERSON, individually )  
 )  
Defendants. )

Case No.: 09-3018-CV-S-RED

**Jury Trial Demanded**

**SUGGESTIONS IN SUPPORT OF MOTION TO AMEND**  
**JOINT STIPULATION OF UNCONTROVERTED FACTS**

COMES NOW Plaintiff, by and through counsel, and in support of her Motion to Amend Joint Stipulation of Uncontroverted Facts states and informs the Court as follows:

The Joint Stipulation filed by the parties, as noted in the motion, contains language with respect to obtaining the subpoena which is being misinterpreted by counsel for Defendant, and which as interpreted by Defendant does not reflect the agreement of the parties. The language in question is as follows: "On December 23, 2005, Michael Anderson, acting as Prosecuting Attorney of Texas County, requested Judge Ellsworth of Texas County to issue a criminal investigative subpoena...." The parties knew the Stipulation meant purporting to act as Prosecuting Attorney of Texas County. Counsel for Plaintiff has consistently pointed out that there was no real investigation going on and that Defendant obtained the criminal investigative subpoena for the improper purpose of silencing Plaintiff from making truthful statements concerning Defendant and deterring her from pursuing a claim of employment discrimination on the basis of sex, and that his obtaining the criminal investigative subpoena was an illegal, improper, perverted use of process which was neither

warranted nor authorized by the process. These claims are reflected in Plaintiff's Second Amended Complaint, Plaintiff's Response to Defendant's Motion for Summary Judgment, Plaintiff's Suggestions in Opposition to Defendant's Motion for Reconsideration of this Court's Order on the Motion for Summary Judgment, and in the jury instructions submitted by Plaintiff.

Despite this background and context, Defendant has attempted to interpret this language as indicating that Defendant was properly acting as Prosecuting Attorney of Texas County in obtaining that criminal investigative subpoena and was fulfilling the obligations and duties of his office. There is, quite simply, no such agreement or stipulation as to facts, and both parties understood this.

It is worth noting that the Stipulation of Facts does not indicate that Mr. Anderson was in fact conducting an investigation for which the criminal investigative subpoena was necessary: that is because the parties do not agree and did not agree on that fact.

In light of the above, and the fact that Defendant has raised this misinterpretation of the Joint Stipulation of Uncontroverted Facts in both Defendant's Motion for Reconsideration of this Court's Order on the Motion for Summary Judgment and in Defendant's Motion for Leave to File Amended Answer, Plaintiff requests that leave be granted to file an Amended Joint Stipulation of Uncontroverted Facts changing the phrase "acting as Prosecuting Attorney of Texas County" to "purporting to act as Prosecuting Attorney of Texas County" so that no further confusion or misunderstanding will be reflected in the records.

Respectfully Submitted,

STEELMAN, GAUNT & HORSEFIELD

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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I, Stephen F. Gaunt, hereby certify that on the 25<sup>th</sup> day of February, 2011 the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to:

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/s/ Stephen F. Gaunt  
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